

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES

STRATEGIC TECHNOLOGY INSTITUTE, INC.

and

Case No. 15-CA-249872

INTERNATIONAL ASSOCIATION OF
MACHINISTS AND AEROSPACE WORKERS,
AFL-CIO

*Linda Mohns and William T. Hearne, Esqs, for the General Counsel.
James Y. Boland and Karel Mazanec, Esqs. (Venable LLP, Washington, D.C. and Tysons,
Virginia,} for the Respondent.
Ramon A. Garcia, Grand Lodge Representative, Arlington, Texas,
for the Charging Party.*

DECISION

STATEMENT OF THE CASE

Arthur J. Amchan, Administrative Law Judge. This case was tried via Zoom technology from August 30, to September 1, 2021. The Union, the International Association of Machinists and Aerospace Workers, filed the charge in this matter on October 11, 2019. The General Counsel issued the complaint on March 3, 2020.

On the entire record, including my observation of the demeanor of the witnesses, and after considering the briefs filed by the General Counsel and Respondent, I make the following

FINDINGS OF FACT

I. JURISDICTION

The Respondent, Strategic Technology Institute (STI) a corporation, has its headquarters in Rockville, Maryland. It provides services under contract to the United States Government. From August 1, 2017 until July 31, 2020, it provided aircraft maintenance services to the United States Air Force at the Little Rock, Arkansas Air Force Base where it annually provided services valued in excess of \$50,000. The Respondent admits, and I find, that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

The General Counsel alleges that Respondent violated Section 8(a)(3) and (1) in discharging 3 employees on September 27, 2019 and 14 more on October 9, 2019. Respondent does not dispute that it discharged these employees as alleged, but disputes that it did so in violation of the Act.¹ For the reasons stated below, I find that Respondent violated the Act as alleged in the complaint. The General Counsel also alleges that Respondent violated Section 8(a)(1) in placing verbal counseling forms in the personnel files of the 14 employees terminated on October 9. I need not rule on this allegation because as a result of my ruling on the 8(a)(3) allegation, Respondent will be required to remove the counseling forms and inform the discriminatees that it has done so. Thus, there would be no additional remedy.

II. ALLEGED UNFAIR LABOR PRACTICES

On August 1, 2017 Respondent began providing maintenance services to the Air Force on C 130 engines and propellers at the Little Rock Air Force Base.² It replaced Kay and Associates on this contract.³ Respondent's program manager for this contract was Tyler Boyd, who is based in Texas. Boyd, who managed a number of contracts for Respondent, never visited the Little Rock site until sometime in 2020, after the terminations at issue in this case. He managed the contract remotely through a site supervisor.

From August 2017 until July 2018, John Hammes was the site supervisor. Then he retired and Gerald Kiihnl became the site supervisor. Kiihnl had worked on this contract for other employers since 2006. During his employment with Respondent, which ended with his resignation on October 10, 2019, Kiihnl never met Boyd in person. Kiihnl was assisted by Linda Fox.⁴

The maintenance shop was divided into teams; one headed by Randall Anglin, the lead/inspector with 19 employees; another, the tear down section, with Paul Hendrix, the lead/inspector with 15 employees as of October 2, 2019 ; a third headed by Michael Payer, lead inspector, with 11 employees; a fourth, the test cell team,⁵ headed by lead/inspector Danny Gregg, which had 6 employees, all who were test cell certified except one, William Carr. Carr was one test away from certification, Jt. Exh. 27. Respondent also had 2 welders and 3 supply personnel.⁶ The total number of Respondent's employees was about 60.

¹ This was a mass discharge, not a mass lay-off. Respondent, in part at U.S. Government urging, replaced all the employees it discharged. .

² It may have performed services on the engines and propellers of other Air Force planes. The base is located in Jacksonville, Arkansas, a suburb of Little Rock. STI did not perform work on airplanes on the flight line. It maintained and repaired engines and propellers which had been removed from the aircraft.

³ Many companies have had this contract including DynCorp and Raytheon. Respondent lost the contract to Kay and Associates which returned to the project on August 1, 2020.

⁴ Fox died in July 2020 or 2021, before the hearing in this matter.

⁵ The test cell team was located in a separate building, 2 miles from the other mechanics in the main shop. It had its own breakroom.

⁶ It appears that some of these employees may have left Respondent's employment in October 2019.

Union Activity and Discharges

The IAM organized another unit of employees at the Little Rock Air Base in 2018. It concluded a collective bargaining agreement with their employer, VSE in February 2019. In about February 2019, George Bartow, a STI mechanic, who had formerly worked for VSE, called Valerie Rodriguez, an IAM representative to find out more about the Union.

On August 30, 2019, mechanic Eric Rambo, who also had transferred from VSE to STI⁷ resigned his position with STI. Rambo and Bartow carpooled together and in the summer of 2019 discussed the VSE collective bargaining agreement and how its terms compared with working conditions at STI. Bartow and Robert Smith discussed the Union weekly with Jeffrey Taylor in the main shop beginning in August or September when Taylor came from the test cell building to drop off a propeller, Tr. 99, 117, 125, 147-49.

Rambo completed an exit survey form, G.C. Exh. 4, on August 30 which was very critical of STI and of Kiihnl in particular. Rambo testified that he had a telephone conversation that day with Tyler Boyd in which he told Boyd that employees were discussing unionizing. Boyd testified that he does not recall speaking with Rambo. However, he read Rambo's exit survey. After Bartow's discharge, on October 11, 2019, Rambo, then stationed in the Middle East, prepared a statement for Bartow, in that statement Rambo wrote that, "I also asked if he had received any exit surveys. from the previous 5 or so people that had resigned prior to me. He said he hadn't. He would look into it with HR. I also said that we were starting union talks due to the declining work environment. He said he appreciated the info and wished I had called sooner," G.C. Exh. 5.

Site Manager Kiihnl testified that he conducted an exit interview with Rambo on August 30. According to Kiihnl, Rambo complained about Kiihnl's management style and also brought up the possibility that employees might look into joining a union. Kiihnl testified that he passed this information about unionization along to Boyd. Rambo testified that he was unsure as to whether he mentioned unionization to Kiihnl. Boyd denied that Kiihnl ever mentioned anything about unionization to him. Nevertheless, I credit Kiihnl, who gave me no reason to doubt his credibility and was a far more credible witness than Boyd.

I am somewhat skeptical of Rambo's testimony because it is unsupported by any contemporaneous documentation. Also Rambo's friendship with Bartow, would provide a reason for him to write the October 11 memo after learning that Bartow had been fired. However, despite my skepticism, I credit Rambo's testimony that he mentioned "starting union talks" to Boyd.

Despite Boyd's testimony that he did not recall talking to Rambo on August 30, I conclude that he did so. Rambo testified that he asked Boyd if he had seen the exit surveys of the five employees who had left STI before him, Tr. 198. Between August 30 and September 16, Boyd asked Kiihnl for a list of employees who had resigned in the prior year and the reason for their resignations. Boyd had never done so in the past. I infer that this unexplained interest in

⁷ Rambo's given first name is David.

Little Rock personnel was related to his new-found awareness of possible union organizing, which came from Rambo and possibly other sources.

5 Finally, apart from the concerns about Rambo's testimony stated above, I have no reason to discredit it. On the other hand, I have plenty of reason to discredit Boyd, who, in any event, did not directly contradict Rambo, Tr. 378-79, 431.

10 In any event, I find that Boyd became aware of, or suspected, an organization effort, if not from Rambo or Kiihnl, in some other way, no later than September 16, because there is no rational alternative explanation for his conduct from mid-September and into October, *Montgomery Ward & Co.*, 316 NLRB 1248, 1253, (1995). *Shattuck Denn Mining Corp. v. NLRB* 362 F.2d 466, 470 (9th Cir. 1966) [when the stated motive for the discharges is false, it can be inferred that Respondent is concealing an unlawful motive].

15 Boyd was getting a lot of information about what was going on at Little Rock from Jeffrey Pittman,⁸ who was supervising another project for STI, Tr. 445⁹. I do not credit Boyd's testimony at Tr. 377 that he did not receive any communication from Pittman regarding union activity prior to October 11, 2019. Boyd had discussed replacing Kiihnl with Pittman prior to October 9, Tr. 450. According to Boyd, Pittman informed him about a close relationship between
20 Kiihnl and one of the Air Force inspectors, Tr. 445-46. For this reason, according to Boyd he never contacted Air Force personnel about safety issues at Little Rock.

On September 20, 2019 Boyd ordered Kiihnl to evaluate all the mechanics and to rank them. Boyd told Kiihnl that the evaluations and rankings had to be completed before Kiihnl
25 started his vacation on September 24. Boyd did not explain the reason for the evaluations and rankings or why they had to be completed before Kiihnl's vacation.

Kiihnl gave all the mechanics a rating of 3 on a scale of 1-5 and then ranked them from 1
30 – 41. Kiihnl testified that the rankings were done randomly because somebody had to be number 1 and somebody had to be number 41.

On September 16, mechanic Thomas Schilling, left a tool on an engine motor, and/or failed to notice it. Timothy Alsfield, who was responsible for inspecting the motor and Donald Wheeler, who was working from the same toolbox as Schilling did not notice that the
35 screwdriver was missing. A government inspector noticed the error.

Schilling, Alsfield and Wheeler met with Gerry Kiihnl about this incident. Kiihnl told them they would receive a verbal counseling for this mistake. Kiihnl informed the government inspectors of additional precautions that would be taken to prevent a recurrence. The Air Force Contracting Officer's Representative was satisfied with the remedial steps suggested by Kiihnl.
40 Boyd never made any inquiry to Air Force inspectors about this incident or any other safety-related problem.

⁸ Pittman was supervising another project for STI prior to October 9, 2019, Tr. 437, but filled in for Kiihnl when Kiihnl was on vacation.

⁹ Neither party called Pittman as a witness in this case.

On September 23, Boyd called Kiihnl and told him that that the discipline should be more severe and that Alsfield should be terminated. He apparently decided to terminate Schilling and Wheeler later the same day.

On September 27, 2019, while Kiihnl was on vacation, Respondent, by Tyler Boyd, discharged Alsfield, Wheeler and Schilling.¹⁰ Boyd was on a speakerphone and spoke to each mechanic individually. Jeffrey Pittman was present in the room with each employee. Pittman showed Schilling his discharge notice, but did not give it to him. None of the three had received any discipline prior to September 27. Schilling, at least, was unaware of any union activity at the time of his discharge.

George Bartow contacted union representative Rodriguez again on about September 27, 2019 after learning that Respondent had discharged the 3 unit employees. She met with a number of unit employees in the food court at the base PX (post exchange) on October 2, 2019. Bartow collected signed authorization cards from a number of employees between October 2 and 4 and some more after that.

On the afternoon of October 9, Respondent, by Boyd, terminated the bottom 14 employees on Kiihnl's ranking list: George Bartow, William Carr, John Furber, Nathan Gadbois, Daniel Gorman, Billy Howell, Bradley Jones, Timothy Logan, William Menz, Richard Pinedo, Kendall Seward, Robert Smith, Jeffrey Taylor and Barry Wertz.¹¹ Boyd testified that he made this decision on October 9.

A representative of Respondent's human resources department, who identified herself only as "Candy" called each of the 14 employees and informed them that they were being discharged for poor performance. Unbeknownst to any of the employees, Boyd prepared identical verbal counseling forms for each of the 14 and placed one in each personnel file.

The counseling form read as follows:

Member was provided initial and follow-on training on Quality & Safety programs (included both government & company).

Member was counseled & trained on several occasions for; M-18 Failure to comply or conform to Company and Government quality standards, policies or procedures. Member appeared to be unconcerned; received training & counseling after government writeup for, FOD [foreign object debris] on 05 Mar 19 & 03 Sep 19; improper tool usage on 29 Mar 19; not using technical data on 28 Jul 19; and improper tool usage on 20 Sep 19. Training and counseling had proven unsuccessful; member was complacent, confirmed by on-site government over-site and company supervision. On 09

¹⁰ Boyd terminated the 3 employees individually in a speakerphone conversation. Jeff Pittman showed each a discharge notice.

Schilling had worked as an aircraft mechanic at Little Rock for various contractors since 2008 after retiring from the military. When Key & Associates took back the contract in 2020 from STI, it rehired Schilling.

¹¹ An exception was made for an employee on medical leave and the only welder.

Oct 19 member received notification of J-8 insubordination, failure or refusal to comply with job related instructions from management.

Member was verbally informed that strict adherence/compliance to Company and Customer Quality and Safety policies and procedures (P&P) were to take precedence over production regardless of “production push.”

Jt. Ex. 21.

The assertions in these counseling forms with regard to most of the information and for most of the terminated employees, are simply outright lies. Most of these employees were never counseled for anything. The absurdity of these assertions is best exemplified by the fact that one was prepared for employee Nathan Gadbois, who Respondent hired on September 3, 2019. Other terminated employees had also worked for STI for a short period of time and could not possibly have been guilty of the misconduct stated in their counseling forms.

Each form contains Gerald Kiihnl’s signature. Kiihnl did not sign the documents nor did he authorize Boyd to sign the forms for him.¹² Kiihnl voluntarily resigned on October 10, Tr. 267-268. Respondent did not fire Kiihnl despite the fact that Boyd held Kiihnl primarily responsible for the alleged safety issues at the facility, Tr. 368, 389. STI immediately replaced Kiihnl with Jeffrey Pittman, as site supervisor, Tr. 470.

None of the employees received any documentation stating the reasons for their terminations and were totally unaware of the counseling forms prepared by Boyd and placed in their personnel files.

Respondent rehired 2 employees, Jeff Taylor and Barry Wertz, 2 weeks after they were discharged because they were test cell certified and STI could not operate adequately without them. Taylor and Wenz had their seniority restored but were not compensated for the 2 weeks of work they missed. When they returned to work, Respondent did not provide any retraining or counseling to either employee.¹³

These employees were rehired at least in part at the behest of Jeffrey Pittman, who had replaced Kiihnl as Respondent’s site supervisor. On October 17, 2019, Pittman wrote to Boyd:

As the new site supervisor here, I have to ask you to please rehire or allow me to rehire three individuals because of the special certifications they held. J. Taylor and B. Wertz are test cell qualified. M. Carr is one test away from being test cell qualified. Test cell qualification can take up to a year to achieve depending on experience level of the trainee. We currently have no one we can spare to even start the training. These 3 individuals comprised 50% of our test cell manning. I don’t think previous management considered all aspects of these individuals’ value to the organization when they were rated. No matter how we shuffle manning in the organization, we will only be 50%

¹² Given Boyd’s willingness to place documents full of falsifications in the employees’ personnel files and to put Kiihnl’s signature on those documents, I find Boyd to be generally incredible. I take nothing he testified to in defense of Respondent’s position at face value.

¹³ Respondent did not rehire William Carr.

manned in test cell for the foreseeable future. This will severely limit our production. As we get our manning back up, we will seek to have trained and certified alternates in areas such as test cell. Right now, to be successful, we need to rehire the 3 individuals even if it is in a probationary status. I spoke with our test cell lead Danny Gregg and he assured me that had he been asked to rate their performance, he would have rated them as outstanding. I am making this request based solely upon his assessment of their performance and the certifications they hold, I have never met these individuals.

Jt. Exh. 27.

Following the discharges at issue in this case, the Union filed a representation petition with the Board. A majority of unit employees voted to be represented by the Union in a representation election conducted on November 1, 2019. The Union requested bargaining in November. It specifically requested to bargain about the October 9 terminations by December 5, 2019. The parties met once in face to face negotiations on February 27, 2020, for 4-5 hours. No bargaining occurred before that. Bargaining continued via email until July when Respondent informed the Union that it had lost the contract effective August 1, 2020.

Corrective Action Reports (CARs) received by STI at Little Rock

If Government inspectors determined that they had a concern about STI's work they would issue STI a correction action report (CAR). These were classified from Level 1 (the least serious) to Level IV (the most serious). In 2018 Air Force inspectors issued STI 6 Level 1 CARs. Some of these CARs involved foreign objects found in the aircraft engines, Jt. Exh. 7. STI did not discipline any of its employees as a result of these reports.

STI received 5 Level I corrective action reports from the Government in 2019:

CAR 19-002 March 7, 2019 a rivet shop head was found where it was not supposed to be.

CAR 19-002 March 15, 2019-a generator lug was cracked

CAR 19-003 August 7, 2019: Mechanic Richard Pinedo was working without a process book. He received a written warning for this infraction.

CAR 19-004 August 26, 2019- a foreign object was found in the turbine module of an aircraft engine.

CAR 19-005 September 18, 2019-this is the incident in which a tool was left on a motor and 3 employees were terminated as a result on September 27.

After October 9, STI received additional CARs for failing to meet the production requirements on its contract.

Respondent cites these corrective action reports as the reason for the terminations, However, Boyd admitted that the employees, who were let go on October 9, were not terminated due to any belief that they were responsible for the CARs. 3 employees in the test cell team were terminated even though none of the CARs issued in 2019 involved that team, Tr. 497. Thus,

there is no rational connection between the October 9 terminations and any safety concerns Respondent may have had.

While there is a connection between CAR 19-005 and the September 27 terminations, I infer that was not the motivating reason, or least not the sole motivating reason for the 3 discharges. Boyd did not even investigate the role of Mike Payer, the leadman, Tr.512. Payer was working out of the same toolbox as Donald Wheeler. Prior to September 27, 2019, Respondent had received a comparable number of CARs at the Little Rock facility but had never terminated any employee as a result.

The Little Rock employees were also treated disparately from employees at other STI locations for which Tyler Boyd was program manager, GC. Exh. 21 and 22.¹⁴ For example, an employee at Davis-Monthan Air Base improperly installed a bolt and a screw on an engine on October 9, 2019, the same day 14 Little Rock employees were terminated. He only received a verbal counseling, G.C. Exh. 20, p. 25. This employee made multiple errors on November 25, 2019 and received a written warning, G.C. Exh. 20, p. 26. Respondent has offered no explanation as to why Little Rock employees were treated more harshly than employees at other STI locations for which Boyd was program manager. It did not, for example, establish that fewer safety errors occurred at other facilities.

The discharges in this case did not make any business sense. The Air Force immediately became concerned as to how Respondent would meet its contractual obligations, Jt. Exh. 28. In responding to the Air Force, Respondent blamed production delays on “false union claims/union litigation,” Jt. Exh. 28, p. 6.¹⁵

The Air Force required STI generally to complete the servicing of engines and propellers within 12-16 days, Jt. Exh. 2 p. 12. STI did not comply and as a result received 8 CARs between October 9 and December 31, 2019, Jt. Exh. 9. . Respondent also received 12 CARs in 2020 before losing its contract.

Analysis

As a general proposition, to establish an 8(a)(3) and (1) violation based on an adverse employment action where the motive for the action is disputed, the General Counsel has the initial burden of showing that protected activity was a motivating factor for the action, *Wright Line*, 251 NLRB 1083 (1980). The General Counsel satisfies that burden by proving the existence of protected activity, the employer’s knowledge of the activity, and animus against the activity that is sufficient to create an inference that the employee’s protected activity was a motivating factor in his or her discharge. If the General Counsel meets this burden, the burden shifts to the employer to demonstrate that the same action would have taken place even in the absence of the protected conduct.

¹⁴ The only employee terminated at another location not only made errors affecting safety but lied about it afterwards, G.C. 20, p. 38.

¹⁵ Whenever Respondent began recruiting replacements for the discharged employees, it did not recruit enough to adequately perform its contract with the Air Force satisfactorily.

However, in a mass discharge case, such as this one, the General Counsel need not show that each discriminatee engaged in union or other protected activity. Moreover, where the employer's reasons for discrimination are obviously pretextual, knowledge, animus and discriminatory motivation can be inferred. *Pro Spec Painting*, 339 NLRB 946, 949 (2003);
 5 *Montgomery Ward & Co.* 316 NLRB 1248, 1254-55 (1995) *enfd.* 97 F. 3d 1448 (4th Cir. 1996);
Shattuck Denn Mining Corp. v. NLRB 362 F.2d 466, 470 (9th Cir. 1966).

It is also irrelevant that some union supporters were not fired. Aside from the fact that this is generally not the case, *Volair Contractors, Inc.*, 341 NLRB 673, 676 n. 17 (2004) Boyd
 10 may not have known who supported the Union and who did not. Moreover, using Kiihnl's ranking was an effective way of negating the appearance of discrimination based on union sentiments; it sent employees the message Boyd intended to send them.

In the instant case direct evidence of employer knowledge is paper-thin. However,
 15 circumstantial evidence of knowledge, animus and discriminatory motive is overwhelming. I have credited Eric Rambo's testimony that he told Boyd on August 30, that employees were looking into organizing. I have also credited Kiihnl's testimony that he mentioned this to Boyd. This distinguishes the instant case from *Bayliner Marine Corp.*, 215 NLRB 12 (1974) in that I
 20 find that Boyd, who made the termination decisions, had actual knowledge of the employees' contemplation of organizing.

Moreover, Respondent's stated reasons for the discharges are overwhelmingly pretextual. Boyd's draconian punishment of those employees fired on September 27, as well as those he
 25 fired on October 9 was an unprecedented response to a corrective action report.¹⁶

I infer that Boyd's departure from his past practice was due to his acquiring knowledge that some employees were considering unionization. Boyd's refusal to tell Kiihnl the reason for the forced ranking or the criteria by which he expected Kiihnl to rank employees leads me to
 30 infer that the reason for terminations was not to improve safety, but was for an objective he wished to conceal, such as putting a stop to union organizing. Respondent has advanced no other logical reason. Boyd could not have honestly believed that the terminations of relatively newly hired employees was justified for safety violations that occurred before they were hired. Further, the fact that Boyd did not terminate Kiihnl, who would have been most responsible for the
 35 alleged lack of a sufficient safety culture, is also evidence that Respondent's stated reasons for the discharges are pretextual.

The lack of a legitimate business reason for the discharges is another reason for which I infer employer knowledge, animus towards employee organizational efforts and a link between that animus and the discharges. I conclude that the General Counsel met its burden under *Wright*
 40 *Line*. Further, I find that Respondent has not met its burden to demonstrate that the same action would have taken place even in the absence of the union activity.

¹⁶ The obvious pretextual nature of the October 9 discharges is a factor in my conclusion that the September 27 discharges were also pretextual.

Applicability of *Tschiggfrie Properties* 368 NLRB No. 120 (2019) and *Electrolux Home Products* 368 NLRB No. 34 (2019) to this case.

The General Counsel asks that the Board overrule *Tschiggfrie Properties* 368 NLRB No. 120 (2019) and *Electrolux Home Products* 368 NLRB No. 34 (2019). I am required to follow Board precedent; thus this is a request I cannot entertain. However, there is nothing in either of those cases that necessarily requires dismissal of the instant complaint.

As to *Tschiggfrie Properties*, I infer that anti-union animus was a motivating factor for all 17 discharges.

The instant case is materially distinguishable from the facts in *Electrolux Properties*. In *Electrolux*, the union activity of the discriminatee was remote in time from her discharge. In this case the union activity of employees was occurring at the same time as the decision to discharge them. Moreover, the Board gave Electrolux credit for “countervailing evidence,” i.e., good faith bargaining with the union, a factor that is not present in the instant case. The Board also found “nothing suspicious” in the Electrolux investigation of the discriminatee’s conduct that led to her discharge. In the instant case, STI’s conduct is nothing but suspicious and totally unexplained by any non-discriminatory reason. Unlike the facts in *Electrolux*, the surrounding circumstances herein do not undermine the inference of discrimination, they support it. Finally, while the Board found that the discriminatee in *Electrolux* was in fact insubordinate, most of the discriminatees in the instant case were blameless for any problem at STI’s Little Rock facility.

Conclusions of Law

Respondent, Strategic Technologies Institute, Inc. violated Section 8(a)(3) and (1) of the Act by discharging George Bartow, William Carr, John Furber, Nathan Gadbois, Daniel Gorman, Billy Howell, Bradley Jones, Timothy Logan, William Menz, Richard Pinedo, Kendall Seward, Robert Smith, Jeffrey Taylor, Barry Wertz, Thomas Schilling, Timothy Alsfeld, and Donald Wheeler.

REMEDY

The Respondent, having discriminatorily discharged employees, must make them whole for any loss of earnings and other benefits. Backpay shall be computed in accordance with *F. W. Woolworth Co.*, 90 NLRB 289 (1950), with interest at the rate prescribed in *New Horizons*, 283 NLRB 1173 (1987), compounded daily as prescribed in *Kentucky River Medical Center*, 356 NLRB No. 8 (2010). Respondent shall also compensate the discriminatees for any reasonable search-for-work and interim employment expenses regardless of whether those expenses exceed interim earnings. Search-for-work and interim employment expenses shall be calculated separately from taxable net backpay, with interest at the rate prescribed in *New Horizons*, above, compounded daily as prescribed in *Kentucky River Medical Center*, above.

Respondent shall reimburse the discriminatees in amounts equal to the difference in taxes owed upon receipt of a lump-sum backpay award and taxes that would have been owed had there been no discrimination. Respondent shall also take whatever steps are necessary to insure that the Social Security Administration credits the discriminatees’ backpay to the proper quarters on their Social Security earnings records. To this end, Respondent shall file with the Regional

Director for Region 15, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay award to the appropriate calendar years.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended¹⁷

Order

Respondent, Strategic Technologies Institute, Inc, Rockville, Maryland, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Discharging or otherwise discriminating against any of its employees due to knowledge or suspicion of union activities amongst its employees.

(b) In any like or related manner interfering with, restraining, or coercing its employees in the exercise of their rights under Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Make George Bartow, William Carr, John Furber, Nathan Gadbois, Daniel Gorman, Billy Howell, Bradley Jones, Timothy Logan, William Menz, Richard Pinedo, Kendall Seward, Robert Smith, Jeffrey Taylor, Barry Wertz, Thomas Schilling, Timothy Alsfeld, and Donald Wheeler whole for any loss of earnings and other benefits suffered as a result of the discrimination against them, in the manner set forth in the remedy section of the decision.

(b) Compensate George Bartow, William Carr, John Furber, Nathan Gadbois, Daniel Gorman, Billy Howell, Bradley Jones, Timothy Logan, William Menz, Richard Pinedo, Kendall Seward, Robert Smith, Jeffrey Taylor, Barry Wertz, Thomas Schilling, Timothy Alsfeld, and Donald Wheeler for their search-for-work and interim employment expenses regardless of whether those expenses exceed their interim earnings.

(c) Compensate George Bartow, William Carr, John Furber, Nathan Gadbois, Daniel Gorman, Billy Howell, Bradley Jones, Timothy Logan, William Menz, Richard Pinedo, Kendall Seward, Robert Smith, Jeffrey Taylor, Barry Wertz, Thomas Schilling, Timothy Alsfeld, and Donald Wheeler for the adverse tax consequences, if any, of receiving a lump-sum backpay award, AND file with the Regional Director for Region 15, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay awards to the appropriate calendar years.

¹⁷ If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

(d) Within 14 days from the date of the Board's Order, remove from its files any reference to the unlawful discharges and within 3 days thereafter notify George Bartow, William Carr, John Furber, Nathan Gadbois, Daniel Gorman, Billy Howell, Bradley Jones, Timothy Logan, William Menz, Richard Pinedo, Kendall Seward, Robert Smith, Jeffrey Taylor, Barry Wertz, Thomas Schilling, Timothy Alsfeld, and Donald Wheeler in writing that this has been done and that the discharges will not be used against them in any way.

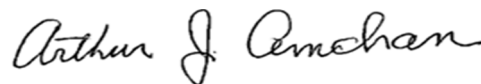
(e) Within 21 days from the date the amount of backpay is fixed, either by agreement or Board order, or such additional time as the Regional Director may allow for good cause shown, file with the Regional Director for Region 15 a copy of the discriminatees' W-2 forms reflecting the backpay award.

(f) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

(g) Within 14 days after service by the Region, Respondent shall duplicate and mail, to all current employees and former employees employed by the Respondent at the Little Rock (Jacksonville), Arkansas Air Force Base at any time since September 27, 2019, at its own expense, a copy of the attached notice marked "Appendix." on forms provided by the Regional Director for Region 15. It shall be mailed after being signed by the Respondent's authorized representative.¹⁸

(h) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. December 9, 2021



Arthur J. Amchan
Administrative Law Judge

¹⁸ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities.

WE WILL NOT discharge or otherwise discriminate against any of you due to your union activities or that of other employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL make George Bartow, William Carr, John Furber, Nathan Gadbois, Daniel Gorman, Billy Howell, Bradley Jones, Timothy Logan, William Menz, Richard Pinedo, Kendall Seward, Robert Smith, Jeffrey Taylor, Barry Wertz, Thomas Schilling, Timothy Alsfeld, and Donald Wheeler whole for any loss of earnings and other benefits resulting from their discharges, less any net interim earnings, plus interest compounded daily.

WE WILL compensate George Bartow, William Carr, John Furber, Nathan Gadbois, Daniel Gorman, Billy Howell, Bradley Jones, Timothy Logan, William Menz, Richard Pinedo, Kendall Seward, Robert Smith, Jeffrey Taylor, Barry Wertz, Thomas Schilling, Timothy Alsfeld, and Donald Wheeler for the adverse tax consequences, if any, of receiving a lump-sum backpay award, AND WE WILL file a report with the Regional Director for Region 15 allocating the backpay award to the appropriate calendar quarters.

WE WILL compensate George Bartow, William Carr, John Furber, Nathan Gadbois, Daniel Gorman, Billy Howell, Bradley Jones, Timothy Logan, William Menz, Richard Pinedo, Kendall Seward, Robert Smith, Jeffrey Taylor, Barry Wertz, Thomas Schilling, Timothy Alsfeld, and Donald Wheeler for their search-for-work and interim employment expenses regardless of whether those expenses exceed their interim earnings.

WE WILL, within 14 days from the date of this Order, remove from our files any reference to the unlawful discharges of George Bartow, William Carr, John Furber, Nathan Gadbois, Daniel Gorman, Billy Howell, Bradley Jones, Timothy Logan, William Menz, Richard

Pinedo, Kendall Seward, Robert Smith, Jeffrey Taylor, Barry Wertz, Thomas Schilling, Timothy Alsfeld, and Donald Wheeler, and WE WILL, within 3 days thereafter, notify them in writing that this has been done and that the discharges will not be used against them in any way.

STRATEGIC TECHNOLOGIES INSTITUTE, INC.

(Employer)

I
Dated _____ By _____
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlr.gov.

600 South Maestri Place, 7th Floor, New Orleans, LA 70130-3413
(504) 589-6361, Hours: 8 a.m. to 4:30 p.m.

The Administrative Law Judge's decision can be found at www.nlr.gov/case/15-CA-249872 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.



THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, (504) 589-638915